

**ORIGINAL**

Before The  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

JUL 18 1997

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Advanced Television Systems and Their ) MM Docket No. 87-268  
Impact Upon the Existing Television )  
Broadcast Service )

To: The Commission

**OPPOSITION TO PETITION FOR RECONSIDERATION**

Journal Broadcast Group, Inc. (Journal), by its attorneys and pursuant to Section 1.429 of the Commission's Rules, hereby opposes the Petition for Reconsideration of the Sixth Report and Order<sup>1</sup> filed by Innovative Technologies, Inc. (Innovative).<sup>2</sup>

Journal is the licensee of Station KTNV-TV, Channel 13, which is licensed to Las Vegas, Nevada. The DTV Table of Allotments in the Sixth Report and Order assigns DTV channel 17 to KTNV. Innovative is the licensee of LPTV Station K17CT in Las Vegas. It requests that the Commission not assign DTV channel 17 to Journal so as to protect Innovative's LPTV channel 17 operation, and instead assign "any other DTV channel" to KTNV.

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<sup>1</sup> In the Matter of Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service, Sixth Report and Order, MM Docket No. 87-268, FCC 97-115 (released April 21, 1997).

<sup>2</sup>Public notice of Innovative's Petition appeared in the Federal Register on July 3, 1997. This Opposition is thus timely under Section 1.429.

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The Commission has long recognized, however, that LPTV stations are "secondary" to full power television stations, and has maintained this fundamental policy in developing and adopting its DTV Table of Allotments. The Sixth Report and Order found that, to provide DTV allotments for all existing full power NTSC stations, displacement of a significant number of LPTV and TV translator stations was necessary. The Commission affirmed the secondary status of LPTV vis-a-vis new DTV channels as for current NTSC channels. Id. at ¶¶ 141-43.

Innovative's Petition essentially asks that the Commission discard LPTV's secondary status and treat LPTV concerns as equal with the Commission's other DTV assignment goals. This is, however, no more than reargument of the Sixth Report and Order's decision on LPTV stations, without offering any new basis or new facts. As such, it must be rejected.<sup>3</sup> Innovative supplies no reason why the Commission should abandon its DTV channel assignment policies at this late stage in the proceeding, which were based on an extensive record in which LPTV stations were fully able to present their views and be heard. The fact that Innovative will have to migrate its LPTV operation to another channel is not a sufficient reason to change Journal's DTV allotment; if it were, the DTV Table would have to be completely redone, and this is precisely what the Commission has rejected. The Commission has already fully considered the same argument

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<sup>3</sup>"Petitions for reconsideration are not granted for the purpose of debating matters which have already been fully considered and subsequently settled. . . . Bare disagreement, absent new facts and argument properly placed before the Commission, is insufficient grounds for reconsideration." Direct Broadcast Satellite Service, 53 RR2d 1637, 1641-42.

Innovative makes and rejected it, concluding that full accommodation of LPTV cannot be achieved while also meeting its DTV policy objectives.

The Commission could, however, address Innovative's concern by granting Journal's own Petition for Reconsideration. That Petition, filed June 13, 1997, seeks the allotment of DTV channel 9 in lieu of channel 17 for KTNV in Las Vegas. Journal demonstrated that the assignment of a DTV channel in the UHF band would impose serious hardship on the full-power station because of significantly higher operating costs, and would also create major potential RF radiation and environmental problems associated with full-power UHF operation on Black Mountain, KTNV's transmitter site. Journal also showed that allotment of channel 9 would resolve these problems, and that it would be consistent with the new DTV allotment rules and policies. The Commission can solve the problems raised by both Journal and Innovative by granting Journal's Petition and allotting channel 9 to KTNV, which will enable Innovative to preserve its LPTV operation on channel 17.

For the above reasons, Innovative's Petition should be denied. If, however, the Commission permits Journal to operate on DTV channel 9, this would allow Innovative to continue its LPTV operation on Channel 17. This solution would clearly serve the public interest by minimizing the costs and environmental risks

created were KTNV forced to construct DTV facilities on channel 17, while preserving an existing LPTV operation on its present channel.

Respectfully submitted,

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Dated: July 18, 1997

CERTIFICATE OF SERVICE

I hereby certify that I have this 18th day of July, 1997, caused a copy of the foregoing "Opposition to Petition for Reconsideration" to be sent by first-class mail, postage prepaid, to the following:

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